

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-156

Judge:

Complainant:

ORDER

The complainant alleged that a superior court judge failed to issue timely rulings, which hampered her ability to pursue an appeal.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After review, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: August 21, 2014

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on August 21, 2014.

This order may not be used as a basis for disqualification of a judge.

State of Arizona
 Commission on Judicial Conduct
 1501 W. Washington Street, Suite 229
 Phoenix, AZ 85007

This complaint is in regards to _____, and alleges violations of the Arizona Code of Judicial Conduct Canon 1 Rules 1.1 and 1.2, and Canon 2 Rule 2.5 in relation to proceedings of _____.

1. It is complainant's position that _____ has routinely ignored A.R.S. 12-128.01, Canon 1 Rule 1.1, and Canon 2 Rule 2.5, and in doing so undermines any confidence in the judiciary and violates Canon 1, Rule 1.2:

- a. Motion for Signed Orders/Entry of Judgment Pursuant to ARFLP Rule 78(A) and 81 filed on _____. This was simply a request for Judge _____ to formally sign and enter previous rulings so that Complainant could file a Notice of Appeal. Over _____ days later, Judge _____ still has not signed a formal and proper order.
- b. Motion for Reconsideration; or in the Alternative Objection to Lack of Findings Pursuant to A.R.S. 25-403 and 25-403.03 filed on _____. No Response was filed and this matter was submitted for decision _____ days as of the date of this complaint.
- c. Complainant filed _____ Motion to Correct Clerical Mistake Pursuant to ARFLP Rule 65 on _____. A Response was filed and the issue was submitted for decision on _____, or _____ day as of the date of this complaint.

It is Complainant's position that she believes Judge _____ has violated A.R.S. 12-128.01 and Sup.Ct.Rules, Rule 81, Code of Judicial Conduct, Rule 2.5.

Complainant requested Judge _____ sign and enter proper orders for the current orders dated _____ and _____. Complainant even attached the relevant minute entries.

On _____, the parties were in court wherein Judge _____ reviewed on the record what the outstanding issues were. The above _____ listed issues were reviewed by Judge _____

. This evidences Judge _____ knowledge on _____, that the issues were still pending and from what date they had been pending from. (See attached certified transcript, Exhibit A, from _____ page 23 line 9 – page 24 line 11.)

On _____, Complainant filed _____ Motion for Judge _____ to recuse _____. Within that Motion Complainant pointed out the above _____ pending issues and how long they had been pending for. (See attached Motion for _____ to recuse himself as Exhibit B.)

On _____, the parties were in court again and Judge _____ ordered the parties to file a list of all pending issues by _____.

On _____, Complainant filed _____ Notice of pending issues, again listing the above _____ items. (See attached Notice as Exhibit C.)

On _____, in light of the recent Arizona Supreme Court decision in _____, Complainant filed proposed orders that comply with both ARFLP Rules 81 and 78(B), as the court's versions did not comply with ARFLP Rule 78(B). By doing so, Complainant was hoping once again that Judge _____ would just simply sign the orders so that Complainant could file _____ Notice of Appeal. (See attached Notice as Exhibit D.)

On _____, after the issues had been submitted to Judge _____ for ruling/signing for over _____ days, after it being brought to Judge _____ attention no less than _____ times that the issues were still pending, Complainant filed _____ Notice of Deadline Pursuant to A.R.S. 12-128.01. (See attached Notice of Deadline as Exhibit E.)

Due to the court's actions, the court has purposefully tied Complainant's hands in ability to file a Notice of Appeal.

Complainant has been waiting over _____ days for Judge _____ to simply sign and enter proper orders so that _____ can file her notice of appeal over those orders. Complainant has done everything _____ can do in order to gain Judge _____ compliance in doing so, short of filing a Petition for Special Action, and yet Judge _____ has refused to do so.

Complainant has since asked for _____ other orders to be properly signed and entered pursuant to ARFLP Rules 81 and 78, and again, no action has been taken by Judge _____ (See attached Exhibits F and G.) Complainant does not believe that signing and making an order complaint with ARFLP Rule 78(B) is a complex issue that under any circumstances would warrant taking over _____ days to complete, especially in light of the fact that Complainant provided the orders to the court for signing.

In relation to the Motion to Correct filed _____ and the Motion for Reconsideration filed _____, while these would take consideration, it has been more than _____ days for Judge _____ to consider the motions and by any reasonable standard this is not complaint with Canon 2 Rule 2.5, and most certainly does not comply with A.R.S. 12-128.01 and Rule 91(e), Rules of the Supreme Court.

Sincerely,